

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JOHN RESTIVO and DENNIS HALSTEAD,

Plaintiffs,

-against-

NASSAU COUNTY, CAROLANN HESSEMAN, AS
EXECUTRIX FOR THE ESTATE OF JOSEPH VOLPE,
in his individual capacity, and CHARLIE FRAAS,
in his individual capacity,

Defendants.

06-CV-6720(JS)(SIL)

**NOTICE OF CROSS APPEAL TO UNITED STATES COURT
OF APPEALS FOR THE SECOND CIRCUIT**

John Restivo and Dennis Halstead, the plaintiffs in the above-captioned matter, hereby cross-appeal to the United States Court of Appeals for the Second Circuit from the following orders of the district court for the Eastern District of New York, insofar as each of these orders dismisses Plaintiffs' claims against Nassau County for malicious prosecution under state law based on a theory of *respondeat superior*: Dkt. 06-CV-6720, D.E. 105 and Dkt. 06-CV-6695, D.E. 67 (Memorandum and Order of August 3, 2009)¹; Dkt. 06-CV-6695, D.E. 83 (Memorandum and Order of December 12, 2009); and Dkt. 06-CV-6695, D.E. 86 (Memorandum and Order of December 21, 2009).

Judgment has entered in this matter, and Defendants filed their Notice of Appeal on December 17, 2014. *See* Dkt. 06-CV-6720, D.E. 232. Plaintiffs hereby give notice of their cross-appeal.

Dated: December 30, 2014
New York, NY

Respectfully submitted,

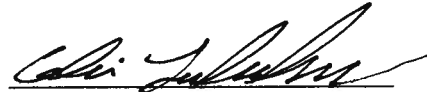
/s/ Anna Benvenuti Hoffmann
Anna Benvenuti Hoffmann

¹ The record of this case was spread over two dockets: the docket initially assigned to this suit, number 06-CV-6720, and the docket initially assigned to the suit of John Kogut, number 06-CV-6695. On March 31, 2009, the Court ordered the two suits consolidated for all purposes, and all docket entries filed under docket number 06-CV-6995, with the docket 06-CV-6720 closed. Dkt. 06-CV-6720, D.E. 100; Dkt. 06-CV-6695, D.E. 56. On October 30, 2013, the Court ordered the suits unconsolidated, and reopened docket number 06-CV-6720. Dkt. 06-CV-6720, D.E. 124; Dkt. 06-CV-6695, D.E. 504.

Barry Scheck
Nick Brustin
Alexandra Lampert
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Attorney for Cross-Appellants

Certificate of Service

I hereby certify that a true and accurate copy of Plaintiff's Notice of Cross Appeal to the United States Court of Appeals for the Second Circuit was served by ECF on December 30, 2014 upon all counsel of record.

A handwritten signature in black ink, appearing to read "Colin Lubelczyk", is written over a horizontal line.

Colin Lubelczyk
Paralegal